



**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: May 6, 2024

**SUBJECT:** City Contractor Equal Pay Act Compliance Ordinance – First Reading  
**REPORT BY:** Nicole Almaguer, City Manager

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**SUMMARY**

The issue before the Council is the consideration of an Equal Pay Ordinance.

**STAFF RECOMMENDATION**

That the Council introduce and waive the first reading of Ordinance No. 2024-01, amending Chapter 2 of the Albany Municipal Code by adding a new section entitled “City Contractor Equal Pay Act Compliance”.

**BACKGROUND**

On April 1, 2024, Vice Mayor López and Council Member Tiedemann provided a memorandum requesting the Council direct staff to prepare an Equal Pay Ordinance that codifies pay parity across genders for contractors/vendors under contractual agreement with the City of Albany. The City Council unanimously approved this request.

**DISCUSSION**

The proposed Ordinance incorporates requirements that have been established regarding equal pay, prohibiting an employer from paying any of its employees wage rates less than the wage rates paid to employees of another gender, race or ethnicity for equal or substantially similar work per the California Equal Pay Act and Fair Pay Act, which are codified in California Labor Code section 1197.5.

The Ordinance is intended to provide a mechanism for the City to determine whether those under contract to provide services to the City are in compliance with the requirements of the Equal Pay Act and Fair Pay Act. All entities entering into a contract with the City will be required to certify in writing that they will comply with the requirements of the California Equal Pay Act and Fair Pay Act. Further, violations will be addressed and can constitute a material breach of the applicable contract, with authority by the City to cancel, terminate, or suspend the contract.

## **SUSTAINABILITY CONSIDERATIONS**

N/A.

## **SOCIAL EQUITY AND INCLUSIVITY CONSIDERATIONS**

As provided by Vice Mayor López and Council Member Tiedemann, ensuring codified protection for equity in pay, regardless of gender, ethnic background, or race, advances the City's equity goals.

## **CITY COUNCIL STRATEGIC PLAN INITIATIVES**

The proposed Ordinance helps further the City Council Strategic Plan, Goal 4: Encourage Community Connectivity through Diversity, Equity & Inclusivity.

## **FINANCIAL CONSIDERATIONS**

The proposed Ordinance will be implemented and administered with existing staff resources and should not require additional funding that is not already incorporated into the City Operating Budget.

### **Attachment**

1. Ordinance No. 2024-01

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**ORDINANCE NO. 2024-01**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING  
CHAPTER 2 OF THE ALBANY MUNICIPAL CODE BY ADDING A NEW SECTION  
ENTITLED “CITY CONTRACTOR EQUAL PAY ACT COMPLIANCE”**

**WHEREAS**, the City of Albany prioritizes racial inclusivity and social equity for all members of our community; and

**WHEREAS**, the California Equal Pay Act and Fair Pay Act, which are codified in California Labor Code section 1197.5, prohibit an employer from paying any of its employees wage rates less than the wage rates paid to employees of another gender, race or ethnicity for equal or substantially similar work; and

**WHEREAS**, recent salary studies have shown that women continue to be paid less than men for substantially similar work; and

**WHEREAS**, wage disparities in earnings have a significant impact on the welfare and economic security, and can contribute to higher poverty rates among women, especially women of color and single women living with children; and

**WHEREAS**, there is no mechanism for a local agency to determine whether contractors or firms who seek to contract with the local agency are in compliance with the requirements of the Equal Pay Act.

**NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:**

**SECTION 1: CHAPTER 2 OF THE ALBANY MUNICIPAL CODE, ARTICLE VI, SECTION 2-29 TITLED “CITY CONTRACTOR EQUAL PAY ACT COMPLIANCE” IS HEREBY AMENDED AS FOLLOWS:**

1 PURPOSE.

2 It is the intent of the Albany City Council to provide a local means of determining whether entities  
3 contracting with the City are in compliance with the California Equal Pay Act. The regulations  
4 established by this ordinance shall apply to all individuals or firms who provide services to the  
5 City as independent contractors or paid consultants.  
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8 DEFINITIONS.

9 “City” as herein used shall mean the City of Albany

10 “Contract” means any agreement between the City and another party for the provision of material,  
11 equipment or services to the City. Contract does not include public works contracts as defined by  
12 Albany Municipal Code Section 13-4.1.

13 “Contractor” means any individual or firm providing or proposing to provide material, equipment  
14 or services to the City as an independent contractor or consultant.

15 APPLICABILITY OF EQUAL PAY ORDINANCE.

16 All contracts awarded by the City for material, equipment, or services to contractors shall  
17 demonstrate compliance with the requirements of the California Equal Pay Act and Fair Pay Act  
18 as codified in California Labor Code section 1197.5. The awarding of a contract or the approval  
19 of payments or expenses under a contract by the City to a person or entity that has not complied  
20 with the reporting requirements is regarded as a violation.

21 Awarding of contracts shall be prohibited according to the following:

- 22 (1) A contractor shall not be awarded a contract with the City when the contractor has been  
23 determined to have violated the Equal Pay Act and Fair Pay Act at any time within the  
24 preceding five (5) years.
- 25 (2) A contractor shall not be awarded a contract with the City if the contractor refuses to comply  
26 with the requirement to provide a certification of compliance as part of Equal Pay Act and  
27 Fair Pay Act as part of contract agreements.  
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1 CERTIFICATION OF COMPLIANCE.

2 Contractors shall certify in writing to the City that they will comply with the requirements of the  
3 California Equal Pay Act and Fair Pay Act, as defined in California Labor Code section 1197.5,  
4 and as may be amended, for the duration of the applicable contract.  
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6 VIOLATIONS.  
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8 The City may issue a written notice to the contractor if it determines that a violation exists. The  
9 notice shall inform the contractor that it must cure the violation within 30 calendar days.  
10 Contractor's failure to cure the violation shall constitute a material breach of the applicable  
11 contract and the City may cancel, terminate, or suspend the contract in whole or in part, in addition  
12 to any other remedies or actions provided in the contract.

13 **SECTION 2: PUBLICATION AND EFFECTIVE DATE.**

14 This ordinance shall be posted at three public places within the City of Albany and shall  
15 become effective thirty days after the date of its posting.  
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17 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on  
18 the \_\_ day of \_\_\_\_\_ 2024, by the following vote:

19 AYES:

20 NOES:

21 ABSENT:

22 ABSTAIN:

23 \_\_\_\_\_  
24 JOHN MIKI, MAYOR  
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